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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/547,588	04/11/2000	Mohamed K. Diab	MASIMO.056DC1	4577

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KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE, CA 92614

EXAMINER

WINAKUR, ERIC FRANK

ART UNIT

PAPER NUMBER

3736

DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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DATE MAILED:

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**Commissioner of Patents and Trademarks**

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 2 - 23, as presented in the amendment, have been renumbered 31- 52.

The amendment filed on July 11, 2002 canceling all claims drawn to the originally presented invention and presenting new claims drawn to an invention that is independent or distinct from the invention originally claimed is non-responsive (MPEP § 821.03). The remaining claims are not readable on the originally presented (and effectively elected by original presentation) invention because the newly presented claims are drawn to a physiological monitor/method for monitoring/estimating a pulse rate and do not include a method of approximating a signal using a waveform scrubber, as set forth in the originally presented claims.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Eric F Winakur  
Primary Examiner  
Art Unit: 3736